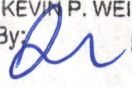


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SEP 22 2023

KEVIN P. WEIMER, Clerk  
By:  Deputy Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT GEORGIA  
ATLANTA DIVISION


VINEYARD POINTE 1031, LLC  
R JAMES PROPERTIES INC.  
P.O. BOX 451027  
Atlanta, GA. 31145

Plaintiff,

FEDERAL CASE NO. \_\_\_\_\_

Vs.

LINDSAY JOHNSON  
And all other occupants  
8213 Hwy 85, Unit 405  
Riverdale, GA. 30274

  
Cross Reference to Magistrate Case  
Clayton County: 2023CM17530

Defendant,

**NOTICE OF REMOVAL OF ACTION WITH A  
FEDERAL STAY OF EVICTION PURSUANT TO 28 USCA 1446 (D)  
MOTION TO VACATE AND SET ASIDE ILLEGAL EVICTION AND  
DISPOSSESSORY/ WRIT AND DECLARATORY RELIEF  
PRELIMINARY STATEMENT WITH INJUNCTION RELIEF**

1.

This action is brought by Defendant Lindsay Johnson, who holds a fee simple lease agreement to property located at Vineyard Pointe 1031, LLC which is located in Clayton County.

**JURISDICTION**

2.

Jurisdiction and venue of this Court over this matter is invoked pursuant to the 28 U.S.C. A§ 1331, 1332, 1343 and 1357.

**PARTIES**

3.

Defendant Lindsay Johnson is the tenant of property 8213 Hwy 85, Unit 405 Riverdale, GA. 30274.

4.

Plaintiff who is the Landlord known as Vineyard Pointe 1031, LLC is a debt collector and a property management group. FDCPA 15 U.S.C. A§ 2605(i) (2).

5.

The Landlord/ Plaintiff may be served with a copy of this Removal upon its counsel of Record.

**NATURE OF THE ACTION  
AND BACKGROUND FROM DEFENDANT**

6.7.8.

This is an action to enjoin Plaintiff Vineyard Pointe 1031, LLC from conducting and enforcing an illegal writ of possession with respect to property located in Clayton County against Defendant Lindsay Johnson to set aside the illegal eviction in the Magistrate Court of Clayton County. This property is located within the County of Clayton. Defendant Lindsay Johnson further seeks injunction relief against the Plaintiff Vineyard Pointe 1031, LLC.

**COUNT I  
PETITION OF REMOVAL**

9.

The Plaintiff Vineyard Pointe 1031, LLC did violate 15 USC 1692, Rule 60 of the Federal Rule of Civil procedure and having legal duty to abort eviction pursuant to O.C.G.A. 51-1-6. The Magistrate Court of Clayton County Dispossessionary action is in violation of 14<sup>th</sup> Amendment of the U.S. Constitution with respect to Due Process Of Law. The Magistrate Court of Clayton County Dispossessionary is unconstitutional with respect to the "Due Process Clauses" 14<sup>th</sup> Amendment.

**COUNT II  
ILLEGAL DISPOSSESSORY**

10.


Defendant Lindsay Johnson avers that the Plaintiff illegal dispossessionary piggy-backed upon Plaintiff Vineyard Pointe 1031, LLC having no legal standing to Evict on the Defendant Lindsay Johnson.

**PRAYER FOR RELIEF**

**WHEREFORE**, the Defendant Lindsay Johnson respectfully requests that this Court:

1. Enjoin and issue **INSTANTER**, an emergency Notice Of Removal that was filed by the Defendant Lindsay Johnson.
2. Enjoin and issue **INSTANTER** an emergency Motion to Set Aside the Magistrate Court Date because this case has been removed to the United States District Court Northern District Of Georgia (Atlanta Division)
3. Enjoin and issue **INSTANTER** a preliminary and interlocutory injunction against the Plaintiff illegal eviction.

4. Grant such other or further relief as is appropriate. Respectfully submitted,

  
Lindsay Johnson  
(Pro Se / Petitioner)

**CERTIFICATE OF SERVICE**

I, Lindsay Johnson by certify that a copy of the foregoing  
**NOTICE OF REMOVAL OF ACTION WITH A FEDERAL STAY OF EVICTION**  
**PURSUANT TO 28 USCA 1446** has been served pursuant to Fed.R. Civ.P 4

This 15<sup>th</sup> day of September 2023 upon all interested parties named below by regular  
United States Mail postage prepaid, unless another manner of service is expressly indicated, to  
ensure proper delivery:

VINEYARD POINTE 1031 , LLC  
R JAMES PROPERTIES INC  
P.O. BOX 451027  
ATLANTA, GA. 31145

I CERTIFY UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.  
Executed on September 15, 2023:



**MAGISTRATE COURT OF CLAYTON COUNTY,  
STATE OF GEORGIA**

**DISPOSSESSORY PROCEEDING**

Vineyard Pointe 1031, LLC, R James Properties Inc

P.O. Box 451027

Atlanta, GA 31145

**PLAINTIFF'S NAME & ADDRESS**

Lindsay Johnson, and All Other Occupants

8213 Highway 85, Unit 405

Riverdale, GA 30274

**DEFENDANT'S NAME & ADDRESS**

CASE NO. 2023CM17530

Gracy Barksdale 037945

Personally, appeared the undersigned affiant who on oath says that he/she is (owner), (agent), (attorney at law) for plaintiff herein, and that defendant(s) is (are) in possession as tenant of premises at said address as stated above, in Clayton County, the property of said plaintiff. FURTHER: (circle only one)

- (a) THAT tenant fails to pay the rent which is now past due;  
(b) THAT tenant holds the premises over and beyond the term for which they were rented or leased to tenant(s);  
(c) THAT tenant is a tenant at sufferance;  
(d) THAT \_\_\_\_\_; and plaintiff is entitled to recover any and all rent that may come due until this action is finally concluded.

Plaintiff desires and has demanded possession of the premises and Defendant has failed and refused to deliver said possession.

WHEREFORE, Plaintiff DEMANDS:

(a) possession of the premises; (b) past due rent of \$899.00; (c) rent accruing up to the date of judgment or vacancy at the rate of \$30: 29.97 \ 31: 29.00 per day; (d) \$92.00 Court + \$200.00 Filing Fee + \$100.00 Late Fees + \$101.00 Water & Sewer

By affixing this electronic verification, oath, or affidavit to the pleading(s) submitted to the court and attaching my electronic signature hereon, I do hereby swear or affirm that the statements set forth in the above pleading(s) are true and correct.

Affiant: /s/ Mohammad Azizi

Date: 07/24/2023

**SUMMONS**

**TO THE SHERIFF OF CLAYTON COUNTY OR HIS LAWFUL DEPUTIES**

**GREETINGS:** The defendant(s) is/are commanded and required to file an answer to said affidavit in writing or orally in person at the Magistrate Court of Clayton County, Jonesboro, Georgia on or before the seventh (7<sup>th</sup>) calendar day (including weekends and holidays) after the date of service of the within affidavit and summons. You may also file an answer online at [odysseyfilega.com](https://odysseyfilega.com) by 11:59 P.M. on or before the last day to answer this summons. EACH defendant is required to file an answer in his or her own name. If such an answer is not made, a Writ of Possession and/or Judgment may issue as provided by law.

Witness the Honorable Keisha Wright Hill, Chief Magistrate of said Court.

This \_\_\_\_\_ day of 7/25/2023, 20\_\_\_\_\_, /s/ Karla Euler Deputy Clerk

**SHERIFF'S ENTRY OF SERVICE**

I have served the foregoing affidavit and summons on the Defendant(s) by delivering a copy of same: ( ) Personally ( ) Notoriously (name) \_\_\_\_\_ (X) By posting a copy to the door of the premises and depositing a copy in the U.S. Mail, First Class in an envelope properly addressed, with adequate postage thereon, said copy containing notice to the Defendant(s) to answer at the place stated in said summons.

DATE OF SERVICE 8/21/23 \_\_\_\_\_ D/Sheriff

**IMPORTANT NOTICE**

Pursuant to Official Code of Georgia, Section 44-7-55(c), any writ of possession issued pursuant to this article shall authorize the removal of the tenant or his or her personal property or both from the premises and permit the placement of such personal property on some portion of the landlord's property; further, it provides that after execution of the writ, such property shall be regarded as abandoned.

Pursuant to Code of Clayton County, Georgia, Section 82-91 et. seq., if such personal property is not removed from the landlord's property within twenty-four (24) hours of the date and time of the execution of the writ of possession, and if the property otherwise is in violation of the county code, a citation for violation of the county code may issue against the plaintiff.